

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JAMES PETER KYRICOPOULOS,
Petitioner,

v.

ERIN GAFFNEY
Respondent.

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Civil Action No. 17-11778-FDS

RESPONDENT'S MOTION TO DISMISS

The respondent, Erin Gaffney, the Superintendent of Old Colony Correctional Center, respectfully moves this Court to dismiss the above-captioned petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on the ground that the petition contains unexhausted claims. *See Rose v. Lundy*, 455 U. S. 509, 518-519 (1982). The respondent relies on the accompanying memorandum of law in support of his motion to dismiss.

WHEREFORE, for the foregoing reasons, the respondent requests that this Court dismiss this action in its entirety pursuant to Fed. R. Civ. P. 12(b)(6).

Respectfully submitted,

MAURA HEALEY

/s/ Eva M. Badway
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Dated: October 31, 2017

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on October 31, 2017.

/s/ Eva M. Badway
Eva M. Badway